

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

IMAD M. IDRES,	:	CIVIL No. 4: 05-CV-00717
	:	
Petitioner	:	(Judge McClure)
	:	
v.	:	(Magistrate Judge Smyser)
	:	
WARDEN THOMAS HOGAN,	:	
	:	
Respondent	:	

O R D E R

May 6, 2005

BACKGROUND:

On April 11, 2005, Imad M. Idres, a prisoner in the York County Prison, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. The petitioner is seeking to vacate a conviction and sentence he received in the United States District Court for the Eastern District of Pennsylvania.

The petition was originally referred to United States Magistrate Judge J. Andrew Smyser.

On April 14, 2005, Magistrate Judge Smyser filed a 5-page report and recommendation recommending that the petition for a writ of habeas corpus be dismissed and that the case file be closed. No objections have been filed to the report and recommendation.

Magistrate Judge Smyser correctly noted that petitioner raises claims that normally should be brought by way of a § 2255 motion. The report and recommendation also observed that petitioner has not argued that a § 2255 motion would be inadequate or ineffective to test the legality of his detention. Therefore, Idres may not proceed with his 28 U.S.C. § 2241 petition. See United States v. Brooks, 230 F.3d 643, 646-49 (3d Cir. 2000) (discussing instances where a petitioner's recourse to a petition under § 2241 might be granted by a court on matters typically filed in motions under § 2255).

Accordingly, the report and recommendation will be adopted in full for the reasons set forth therein.

NOW, THEREFORE, IT IS ORDERED THAT:

1. The report and recommendation of United States Magistrate Judge J. Andrew Smyser (Rec. Doc. No. 3), is adopted in full for the reasons set forth therein.
2. The petition for a writ of habeas corpus is dismissed. (Rec. Doc. No. 1.)
3. The clerk is directed to close the case file.

s/ James F. McClure, Jr.
James F. McClure, Jr.
United States District Judge